



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/940,554	08/27/2001	Per Eld Ibsen	980.1109US01	4984
22865	7590	02/24/2005	EXAMINER	
ALTERA LAW GROUP, LLC 6500 CITY WEST PARKWAY SUITE 100 MINNEAPOLIS, MN 55344-7704			PAYNE, DAVID C	
			ART UNIT	PAPER NUMBER
			2633	

DATE MAILED: 02/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/940,554	Applicant(s) IBSEN ET AL.	
	Examiner David C. Payne	Art Unit 2633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-33 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/27/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Drawings***

1. The drawings are objected to because drawings contain blank boxes and other shapes, which are not widely, recognized engineering symbols. Applicant must supply a suitable legend. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

The following are direct quotations of 37 CFR 1.84(n), (o), repeated below:

- (n) ***Symbols.*** Graphical drawing symbols may be used for conventional elements when appropriate. The elements for which such symbols and labeled representations are used must be adequately identified in the specification. Known devices should be illustrated by symbols which have a universally recognized conventional meaning and are generally accepted in the art. **Other symbols which are not universally recognized may be used, subject to approval by the Office, if they are not likely to be confused with existing conventional symbols, and if they are readily identifiable.**
 - (o) ***Legends.*** **Suitable descriptive legends may be used subject to approval by the Office, or may be required by the examiner where necessary for understanding of the drawing.** They should contain as few words as possible.
2. The examiner acknowledges the drawing amendments made by the applicant. However, the drawings have several reference numbers, which point to the same element as well as general rectangles, or boxes that cannot all point to the same element and therefore will require a legend. As a courtesy to the applicant the examiner has indicated the reference items in question below and the required remedy.

Figure(s)	Reference #	Require labels	Duplicate ref. #s for the same item
2, 6, 8, 20, 21,	214, 216	X	

Art Unit: 2633

23, 24			
3	302, 304, 306	X	
3	302, 306	X	X
4	402, 404, 408, 410	X	
5	502, 504, 505, 508, 510	X	
23	2315	X	
24	2414, 2418	X	X
24	2416, 2412	X	X
24	2424	X	
25A	2512, 208, 2514, 2516, 2522, 214, 2504, 2518, 2530	X	
25A	2506, 2502	X	X
25A	2510, 2528, 2508	X	X
25B	2552, 2510, 2554	X	X
25B	2556, 2558	X	
28	2802, 216, 214, 2424	X	
28	2410, 2412	X	X
29	2806, 2804	X	
30	All	X	
35A	All	X	
35B	All	X	
35C	All	X	
34	214, 3416	X	
36A	214, 216	X	
36B	214	X	
38A	214, 216, 3830	X	
38B	214, 3830, 3630	X	
39	214, 216	X	
40	4002, 4004, 4006, 4008, 4010	X	

3. Examiner regrets that the following restriction has been made at this point in the prosecution, however, a restriction is now required for the following reasons outlined below:

Election/Restrictions

4. Restriction to one of the following inventions is required under 35 U.S.C. 121:

Art Unit: 2633

- I. Claims 1-17 are drawn toward a channel power control device with polarization separation and absorption layer properties along the substrate classified in class 398 subclass 14 and class 359 subclasses 274 and 569 .
- II. Claims 18-23 are drawn toward an optical communication system for amplifying and monitoring a multi-channel optical signal classified in class 398, subclass 37.
- III. Claims 24-32 are drawn toward a method of adjusting a power profile of a multi-channel signal classified in class 398 subclass 38.
- IV. Claim 33 is drawn toward a device for controlling a multiple channel communications signal classified in class 398 subclass 43.

5. The inventions are distinct, each from the other because of the following reasons:

Inventions II and III are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because channel power control need not require fiber amplifying the signals. The subcombination has separate utility such adjusting a power profile of a multi-channel signal regardless of monitoring and attenuations of signals.

Inventions III and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IV has separate utility such as a multiplexing/demultiplexing device See MPEP § 806.05(d).

Art Unit: 2633

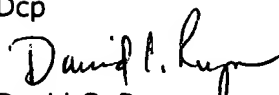
Inventions I and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention IV has separate utility such as a multiplexing/demultiplexing See MPEP § 806.05(d).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Payne whose telephone number is (571) 272-3024. The examiner can normally be reached on M-F, 7a-4p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan can be reached on (571) 272-3022. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dcp


David C. Payne
Patent Examiner
AU 2633